

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

NO. 05 MJ90-03

V.

SAM RACH CHAN

MOTION FOR BAIL

NOW COMES Sam Rach Chan, by and through counsel, with the following Motion for Bail.

In support thereof, Mr. Chan states as follows:

1. On August 8, 2005, Mr. Chan was arraigned on a criminal complaint charging him with a conspiracy to distribute a controlled substance, to wit escasy, marijuana and cocaine. Since August 8, 2005 Mr. Chan has been held at the Strafford County House of Corrections. At the time of the arraignment, Mr. Chan stipulated to detention.
2. It has been approximately two months and the Government has not indicted Mr. Chan. No discovery has been received in this case. With regards to the 35 page complaint which Mr. Chan is being held on, little reference is made to Mr. Chan. Within the 35 page complaint there are only three references to Mr. Chan. The references are that an individual knows him from the past, a telephone call was recorded where Mr. Chan was speaking to Mr. Say, and one controlled drug buy was made where Mr. Chan was only a passenger in the motor vehicle. In sum, there is not a lot of evidence against Mr. Chan.
3. Pursuant to 18 U.S.C. Section 3142 (f)(1), a rebuttal presumption exists that no condition or combination of conditions will reasonably assure the safety of any

other person in the community if the judicial officer finds that there is probable cause to believe the defendant committed a drug offense punishable by ten years or more.

4. Section 3142 (g) sets forth the factors that a judicial officer shall take into account. In examining some of these factors, Mr. Chan has a minimal criminal record. He has appeared at all court proceedings. He has been a long time resident of the State of New Hampshire and is a United States citizen born in Exeter, New Hampshire. He has familial contacts in the State of New Hampshire with his sister, Rais Chan living at 62 Green Street, 312, Somersworth, New Hampshire 03878. His mother Ngiam Sat lives in Portland, Maine. Mr. Chan has a brother Moun Chan who lives in Sanford, Maine and is gainfully employed. Mr. Chan who has lived in New Hampshire for the past 10 years has employment history where he was a landscaper and worked at a computer chip company, as well as a cleaning company all in New Hampshire. If granted bail on this case, Mr. Chan would live with his sister in Somersworth, New Hampshire.
5. Although it is well settled that an indictment alone may establish probable cause necessary to give rise to the rebuttal presumptions, Mr. Chan is not being held on an indictment and instead a criminal complaint. The Government earlier in this case had moved to continue the time it needed in order to indict Mr. Chan. Mr. Chan has been held in custody for two months without an indictment. It is the Government's responsibility for the delay and the evidence against Mr. Chan is weak.

WHEREFORE, Mr. Chan respectfully requests this Honorable Court to:

- A. Hold a bail hearing; and
- B. Order such other relief that may be just and proper.

Respectfully submitted,
Sam Rach Chan,
By His Attorney,

Date: October 4, 2005

/S/ Richard Monteith
Richard Monteith

CERTIFICATE OF SERVICE

I, Richard Monteith, herein certify that on this 4th day of October, 2005, a copy of the within was e mailed to Mark Howard, Esquire, Assistant United States Attorney.

/S/ Richard Monteith
Richard Monteith